

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12157 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE K.M.MEHTA

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

JAI AMBE TEXTILES

Versus

UNION OF INDIA

Appearance:

1. Special Civil Application No. 12157 of 2002
MR AMAR P DAVE for Petitioner No. 1-2
MR DN PATEL, Senior Standing Counsel for Respondents
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CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE K.M.MEHTA

Date of decision: 26/12/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

Rule. Service of rule is waived by Shri D.N. Patel, senior Standing Counsel for the respondents. At the request of the learned advocates, this petition is finally heard today.

2. The grievance which has been ventilated in this petition by the petitioner is with regard to not refunding the amount of pre-deposit deposited by petitioner No. 1 with the respondent authorities.

3. The facts giving rise to this petition, in nutshell, are as under:

By an order dated 12.7.2001 respondent No. 2 had directed petitioner No. 1 to pay a sum of Rs. 1 lakh. Petitioner No. 1 was aggrieved by the said order and therefore filed appeal before Customs, Excise and Gold (Control) Appellate Tribunal (CEGAT for short). By an order dated 22.11.2001, CEGAT directed petitioner No. 1 to deposit a sum of Rs. 2 lakhs by way of pre-deposit. The said amount had been duly paid by petitioner. Thus in all a sum of Rs. 3 lakhs was paid by the petitioner in pursuance of order passed by respondent No. 2 as well as the CEGAT.

4. Ultimately, by an order dated 30.7.2002, CEGAT quashed and set aside the order passed by respondent No. 2 dated 12.7.2001.

5. In view of the above facts, the amount which was paid by petitioner No. 1 in pursuance of the order passed by respondent No. 2 as well as amount deposited by way of pre-deposit in pursuance of order passed by CEGAT dated 22.11.2001 ought to have been refunded to petitioner No. 1. As the said amount has not been refunded, petitioner No. 1 had made an application for refund as well as had sent reminders. Ultimately, as the said amount was not refunded to petitioner No. 1 in spite of several reminders, the petitioner has been constrained to approach this court with a prayer that the respondents be directed to pay the said amount of Rs. 3 lakhs along with interest thereon.

6. In pursuance of notice issued by this court, senior Standing Counsel Shri D.N. Patel has appeared and has placed on record affidavit-in-reply filed by Mr. Rajendra Kumar Gupta, Assistant Commissioner, Central Excise, Division IV, Ahmedabad-I. The stand of the respondent authorities is that the original T.R. - 6

challans were not shown to the respondent authorities and therefore, the refund has not been given. It is a case of the petitioner that an attested copy of the T.R. - 6 challans was forwarded to the respondent authorities.

7. Looking to the facts of the case, we direct the respondent authorities to pay the said sum of Rs. 3 lakh upon presentation of original T.R. - 6 challans by petitioner No. 1. It has been submitted by the learned counsel for the petitioner that original T.R.- 6 challans shall be shown to respondent No. 3 and the petitioner shall permit respondent No. 3 to take a copy of T.R.- 6 challans, which would be produced before respondent No. 3. A formal application in whatever form shall be again given to respondent No. 3 for refund of the said amount.

8. Within a week from the date of presentation of original T.R. - 6 challans and the application for refund before respondent No. 3, the said amount of Rs. 3 lakhs shall be given to petitioner No. 1 by way of account payee cheque.

9. This petition is allowed. Rule is made absolute to the above extent with no order as to costs.

(A.R. DAVE, J)

(K.M. MEHTA, J)
(pkn)